

HOUSE BILL REPORT

SSB 5790

As Reported by House Committee On: Environment

Title: An act relating to the economic development element of the growth management act.

Brief Description: Concerning the economic development element of the growth management act.

Sponsors: Senate Committee on Local Government (originally sponsored by Senators Short, Sheldon, Angel and Wilson).

Brief History:

Committee Activity:

Environment: 3/16/17, 3/28/17 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Makes the specific contents of the economic development element of Growth Management Act (GMA) comprehensive plans discretionary, rather than requirements of cities and counties planning under the GMA.
- Encourages counties and cities to include certain policies and programs in the economic development elements of their comprehensive plans.
- Allows certain rural counties to adopt new limited areas of more intensive rural development (LAMIRDs) that authorize types of uses that differ from existing uses.
- Makes petitions for a review of rural county LAMIRD designations directly reviewable in superior court, rather than by the Growth Management Hearings Board.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jacob Lipson (786-7196).

Background:

The Growth Management Act (GMA) is the comprehensive land-use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA (GMA planning jurisdictions).

Counties that fully plan under the GMA must designate Urban Growth Areas, areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature.

Growth Management Act Comprehensive Plan Elements.

The GMA planning jurisdictions are required to adopt internally consistent comprehensive land-use plans that are generalized, coordinated land-use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan.

One element that comprehensive plans must include is an economic development element. The economic development must include a summary of the local economy, a summary of strengths and weaknesses of the local economy, and an identification of policies, programs, and projects to foster economic growth and development.

Growth Management Act Rural Element and Local Areas of More Intensive Rural Development.

A second element that county comprehensive plans must include is a rural element. The rural element must protect rural character by applying measures that:

- contain or control rural development;
- assure the visual compatibility of rural development with surrounding rural areas;
- reduce inappropriate land conversions to low-density sprawl in rural areas;
- protect critical areas and surface and groundwater resources; and
- protect against conflicts with designated agricultural, forest, and mineral resource lands.

The rural element of county comprehensive plans allows for the designation of limited areas of more intensive rural development (LAMIRDs), including public facilities and services for the LAMIRD. Counties are authorized to designate three types of LAMIRDs:

- Type I LAMIRDs consist of infill, development, or redevelopment of commercial, industrial, residential, or mixed-use areas that existed as of July 1, 1990, at the time a county became required to plan under the GMA, or at the time that a county chose to plan under the GMA (existing areas). With the exception of industrial areas, Type I LAMIRDs must be principally designed to serve rural populations. Type I LAMIRDs must be consistent with the character of existing areas and may include changes in use. Type I LAMIRDs are not, however, required to adhere to the otherwise-applicable requirements that rural elements assure the visual compatibility

of rural development with surrounding rural areas, and that rural elements reduce inappropriate land conversion to low-density sprawl.

- Type II LAMIRDs consist of the intensification or new development of small-scale recreational or tourist uses that do not include new residential development. Type II LAMIRDs are not required to principally serve rural populations.
- Type III LAMIRDs consist of isolated intensified development of nonresidential uses or of new development of isolated cottage industries and small-scale businesses. Type III LAMIRDs are not required to principally serve rural populations, but must provide job opportunities for rural residents. Type III LAMIRDs may allow the expansion of an existing business, or new small-scale business, so long as there is conformance to the rural character of the area.

Counties must adopt measures to minimize and contain existing areas subject to LAMIRDs. Counties must establish a logical outer boundary for LAMIRD lands, beyond which LAMIRDs may not extend. Master planned resorts and major industrial developments are generally not allowed under LAMIRDs.

The Department of Commerce has adopted rules, developed guidance, and provides technical assistance to GMA planning jurisdictions, including with regard to the contents of the rural elements of the county comprehensive plans and to the designation of LAMIRDs by counties.

Growth Management Hearings Board.

A seven-member Growth Management Hearings Board (GMHB) is established under the GMA. The GMHB may hear and determine petitions alleging specific issues, including that a state agency, county, or city planning under the GMA is not in compliance with requirements of the GMA. Alternatively, under the GMA, a superior court may directly review a petition for review filed with the GMHB, upon the agreement of all of the parties to a proceeding. On direct review, a superior court has largely the same subject matter jurisdiction as the GMHB. Appeals from a final judgment of the superior court must be made to the court of appeals or Washington Supreme Court. The superior court must render its decision within 180 days of receiving a certification by the parties to a proceeding declaring their agreement to direct review.

Identification of Certain Rural Counties.

Several state laws define rural counties to include those counties with a population density of less than 100 persons per square mile or that cover less than 225 square miles. According to the Office of Financial Management (OFM), 30 of the state's 39 counties meet these definitional requirements as of April 1, 2016 (OFM-identified rural counties). Benton, Clark, Kitsap, King, Pierce, Snohomish, Spokane, Thurston, and Whatcom counties are not OFM-identified rural counties.

Summary of Amended Bill:

The GMA planning jurisdictions may, rather than must, include specified components of the economic development elements in their comprehensive plans. The components of the

economic development elements of GMA comprehensive plans may additionally include an evaluation of whether economic growth has occurred during the previous eight years, including the median income of the city, town, or county relative to the state average.

The GMA planning jurisdictions are encouraged, but not required, to incorporate new components of the economic development elements of their comprehensive plans, including policies and programs to increase incomes, to examine whether sites planned for economic development have adequate public facilities, to include education and job-training programs, and to address existing economic development opportunities.

The GMA planning jurisdictions are encouraged to adopt comprehensive plans and development regulations that promote economic development in urban and rural areas, and to evaluate their economic performance since the comprehensive plan was last updated. The GMA planning jurisdictions may make findings regarding the economic condition of the jurisdiction, including the existence of economic deterioration. If there is stagnation or economic deterioration since the most recent update to the comprehensive plan, comprehensive plans and development regulations may be modified to increase economic development opportunities.

The OFM-identified rural counties, and the cities within those counties that are GMA planning jurisdictions, may identify policies and progress to address economic deterioration and seize economic development opportunities.

The OFM-identified rural counties with a population of less than 50,000 that have had a population increase of less than 17 percent over the previous 10 years may also designate a LAMIRD until January 1, 2017, upon a finding of economic deterioration in the county. A LAMIRD designated in these rural counties may only apply to areas that were in existence as of July 1, 1990, or January 1, 2017. The LAMIRDS designation may include authorization of a type of use that is different from the existing use as of either of those two dates. With the exception of the alternative 1990 and 2017 dates that allow an area to qualify for LAMIRD designation by an OFM-identified rural county, the criteria that apply to the designation of Type I, Type II, and Type III LAMIRDS also apply to the designation of LAMIRDS by OFM-identified rural counties.

Six examples of economic deterioration that authorize the designation of a LAMIRD and the identification of new policies and programs are enumerated:

- incomes of at least \$10,000 less than the statewide median household income established by the OFM;
- a decrease in the county's household median income during any of the previous eight years;
- inability of a jurisdiction to add new full-time jobs in sufficient quantity to provide for population increase;
- decreases or stagnation of economic start-up activity during multiple (of the previous eight) years;
- unemployment rates higher than the national and statewide averages during multiple (of the previous eight) years; or
- decreases or stagnation in commercial building permit issuance during multiple years since the comprehensive plan was last updated.

Petitions for review of a LAMIRD designation by an OFM-identified rural county are directly reviewed by superior court, rather than by the GMHB. Superior court direct reviews of LAMIRD designations must generally meet the criteria that apply to direct reviews of other GMA petitions by superior courts.

Amended Bill Compared to Substitute Bill:

The amended bill makes the following changes:

- Job creation and economic development are eliminated as techniques to accommodate rural densities and uses that counties may provide for as part of the rural element of GMA comprehensive plans.
- County rural elements may not accommodate rural densities and uses that are characterized by urban growth.
- The strengths and weaknesses of manufacturing, natural resource, and other locally significant economic sectors may be summarized as part of the GMA economic development element.
- Counties' economic development elements are encouraged to include policies and programs to increase incomes, to examine whether sites planned for economic development have adequate public facilities, to include education and job-training programs, and to address existing economic development opportunities.
- Counties are no longer newly authorized to approve developments and deviate from prescriptive interpretations of the GMA where there has been economic deterioration.
- Courts and the GMHB are no longer directed to provide deference to local economic development choices in situations where the GMA's competing goals would restrain economic development.
- Certain rural counties are authorized to designate new LAMIRDs, which allows for three types of specified development and redevelopment activities to occur on qualifying properties.
- Designated LAMIRDs may allow for different types of use on a property than the uses that existed as of 1990 or 2017.
- Appeals of rural county LAMIRD designations must be directly reviewed in superior court, rather than by the GMHB.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Local governments need more flexibility in supporting economic development in rural areas and in tailoring growth management strategies to local needs and circumstances. People want to work near where they live. Sometimes the GMA can have undesirable

consequences, such as forcing residents of an island without an incorporated area to commute over a state bridge in order to reach a job center. Many rural counties have a very low population density, and allowing economic development would not have the result of making those areas urban in character. Brownfields in rural areas should be made into usable properties. This bill would still require development that is compatible with the rural character of rural areas. County comprehensive plans will still be required to balance the GMA's 13 goals, and to include regulations that are proportional to the potential harms the regulations seek to address.

(Opposed) The development authorized in rural areas by this bill runs contrary to the Legislature's intent as enacted in other portions of the GMA. Rural development should be encouraged under the GMA, but under this bill, 21 counties would be able to use a simple mechanism to exempt themselves from most GMA planning requirements. The factors under which a county could qualify as having experienced economic deterioration are broadly defined and nonexclusive. Futurewise has been engaged in conversations with the prime sponsor to resolve concerns, the most important of which is reinstating the prohibition on growth of urban character in rural areas. Some of the ideas promoted by this bill, such as allowing industrial redevelopments in rural areas, should not be prohibited by the GMA as it exists currently.

Persons Testifying: (In support) Senator Short, prime sponsor; Wes McCart, Stevens County; Helen Price Johnson, Island County; Cindy Alia, Citizens Alliance for Property Rights; and Amber Carter, Portland Vancouver Junction Railroad and Clark County.

(Opposed) Mark McCaskill, Department of Commerce; and Bryce Yadon, Futurewise.

Persons Signed In To Testify But Not Testifying: None.